

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

TAKTL, LLC a limited liability company,)

Plaintiff/Counterclaim Defendant,)

v.)

2:18cv1546

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IWR, NORTH AMERICA, LLC)

a limited liability company formerly known)

as IWR BUILDING SYSTEMS, LLC and)

ALLIANCE GLAZING)

TECHNOLOGIES, INC.)

Defendants/Counterclaim Plaintiffs.)

MEMORANDUM ORDER

AND NOW, this 11th day of November, 2024, upon due consideration of the parties' motions *in limine* seeking to preclude certain categories of damages and the submissions in conjunction therewith, IT IS ORDERED that [244], [243] the motions be, and the same hereby are, denied.

As both parties explicitly acknowledge, their motions ask the court "to weigh the sufficiency of the evidence . . . and, in effect, to resolve [their] factual disputes on the eve of trial." Bowers v. Nat'l Collegiate Athletic Ass'n, 563 F. Supp. 2d 508, 531 (D.N.J. 2008). And as they implicitly acknowledge, where factual disputes remain a determination as to whether the particular forms of damages are to be excluded as "consequential or special damages" is to be made pursuant to a sufficiently developed record.

The motions *in limine* and supporting briefs fall far short of presenting a sufficiently developed record for the purpose of resolving the underlying disputes. Consequently, determinations on the availability of the identified "certain types of damages" will be appropriate

only after the record has been fully developed and the finder of fact is in a position to resolve the parties' factual disagreements.

s/David Stewart Cercone
David Stewart Cercone
Senior United States District Judge

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(Via CM/ECF Electronic Mail)